

Attachment C

Conservation Issue Language with Final Proposed Changes

1.1 Definitions

(ss) “Water Conservation Project” means (1) any program, project, or activity that will reduce potable water use within a regular customer’s service area (including, but not limited to activities undertaken pursuant to Section 1.12 of this agreement), (2) any regular customer’s local water production capacity project that will reduce demand on the Transmission System, and (3) any materials, supplies, Agency staff time, or contractor services provided by the Agency in support of any regular customer’s Water Conservation Project.

1.12 Water Conservation Requirements

(a) The regular customers of the Agency and the Agency, shall (1) become members of the California Urban Water Conservation Council (“CUWCC”) within six months of the effective date of this agreement and remain as members in good standing; (2) sign the “Memorandum of Understanding Regarding Urban Water Conservation in California” (“MOU”) maintained by the CUWCC and implement the Best Management Practices (“BMPs”) of water conservation as are promulgated by CUWCC from time to time, or implement alternative water conservation measures that secure at least the same level of water savings, and shall complete and file the annual CUWCC report form; and (3) implement or use their best efforts to secure the implementation of any water conservation requirements that may be added as terms or conditions of the Agency's appropriative water rights permits or licenses, or with which the Agency must comply under compulsion of regulation or law. In addition to and notwithstanding the foregoing, all regular customers of the Agency shall implement metered billing of all customer accounts no later than two years following execution of this agreement.

(b) Should the Water Advisory Committee determine and so notify any water contractor of the Agency that its efforts to achieve compliance with the water conservation practices required by this Section 1.12 are unsatisfactory, then such water contractor shall bring its water conservation program into compliance within six months after such notice, or within such additional time as may be granted by the Water Advisory Committee. Should such water contractor’s noncompliance as determined by the Water Advisory Committee continue for six months after such notice of noncompliance, or beyond such additional time as may be granted by the Water Advisory Committee, then the water contractor shall thereafter pay a surcharge on all water delivered by the Agency pursuant to this agreement equal to ten percent of the Operation and Maintenance Charge until the Water Advisory Committee determines that such water contractor is in compliance. The proceeds of any surcharge paid pursuant to this section shall be

deposited and paid out in the same manner as the proceeds of the Water Conservation Fund.

(c) The Agency shall use its best efforts to modify its rules and regulations and existing contracts with other Agency customers to implement the water conservation requirements set forth in Section 1.12(a) and the default provisions set forth in Section 1.12(b). With respect to Russian River Customers, the Agency shall use its best efforts to encourage and, where and when possible, require said customers to sign the “MOU” maintained by the CUWCC and implement the “BMPs” of water conservation as are promulgated by CUWCC from time to time.

2.5 Water Conservation Projects

Subject to the restrictions set forth in Section 4.18(b), the Agency may undertake or fund any cost-effective Water Conservation Project that has been approved by the Water Advisory Committee.

4.1 Separate Charges and Funds

(a) On or before April 30 preceding each fiscal year during which any of the following charges are payable, the Agency will establish the amount of the following charges for the ensuing fiscal year:

- (1) the Operation and Maintenance Charge,
- (3) the Storage Facilities Capital Charge,
- (4) the Common Facilities Capital Charge,
- (5) the North Marin Capital Charge,
- (6) the Marin Municipal Capital Charge,
- (9) the Water Conservation Charge.

4.18 Water Conservation Charge; Water Conservation Fund

(a) In addition to the other charges provided by this part, each party to this agreement shall pay a Water Conservation Charge. The Water Conservation Charge shall be a uniform charge per acre-foot and shall be paid by regular customers of the Agency for all water taken from the Transmission System or under the Agency’s water rights. The Agency shall use its best efforts to modify its rules and regulations and existing contracts as necessary to effect payment of the Water Conservation Charge by other Agency customers. Monies collected from the Water Conservation Charge shall be placed in a Water Conservation Fund created by the Agency. The Water Conservation Fund shall be used only to pay or partially pay for the cost of Water Conservation Projects. The aggregate amount of money to be received by the Agency from the Water Conservation Charge for each fiscal year shall be sufficient to cover the Agency's estimate of the total

cost of all Water Conservation Projects for such fiscal year, including a reasonable allowance for usual contingencies and errors in estimation. From and after July 1, 1998, a total of fifteen million dollars (\$15,000,000) shall be expended to implement Water Conservation Projects pursuant to the Water Conservation Plan dated June 29, 1998. The \$15,000,000 shall be allocated as follows: Cotati 2.10%, Petaluma 18.53%, Rohnert Park 10.37%, Santa Rosa 40.25%, Sonoma 4.15%, Forestville 0.66%, North Marin 19.50%, Valley of the Moon 4.43%. Until the total of \$15,000,000 has been expended as set forth above, the Agency shall not fund Water Conservation Projects for or on behalf of Marin Municipal Water District or the Town of Windsor. The Water Conservation Projects for which said \$15,000,000 is to be expended, have been approved by the Water Advisory Committee.

(b) The Agency shall use its best efforts to amend its existing contracts with Russian River Customers to require Russian River Customers to fund or implement water conservation projects at a level equivalent to that funded by the Agency under this agreement. Notwithstanding the penultimate sentence in Section 4.18(a), with regard to the Town of Windsor, any revenue collected by the Agency from the Town of Windsor in its capacity as a Russian River Customer shall be separately accounted for and made available to the Town of Windsor for funding of the Town of Windsor's conservation projects.

5.3 Water Advisory Committee -- Composition and Voting

(c) The Water Advisory Committee shall create a standing Water Conservation Subcommittee. The Water Conservation Subcommittee shall make recommendations to the Water Advisory Committee with respect to any determination of the Water Advisory Committee contemplated under Section 1.12 or Section 2.5 of this agreement, and shall perform other such duties with respect to Water Conservation Projects as may be requested by the Water Advisory Committee. The Water Advisory Committee may create such other and further standing or ad hoc subcommittees, as the Water Advisory Committee shall deem reasonably necessary to assist the Water Advisory Committee in its duties under this agreement.

Note: In the event MMWD is not a “Prime”, reference to a “Water Conservation Charge” in the proposed drafts shall be deleted throughout and that the language of Section 1.8 of the 11th Amended Agreement shall be modified as follows:

“1.8 Books, Records and Accounts

The Agency shall keep or cause to be kept, proper books, records and accounts in which complete and accurate entries shall be made of all monies received from all entities, including the Agency's regular customers, and of the money in the special account held by the County Treasurer of Sonoma County referred to in section 1.7, and of the basis for and application of said money including detailed sub accounts showing expenditures made from Operation and Maintenance Charge revenues for Water Conservation Projects. Said books, records and accounts will be available during normal business hours for inspection by the water contractors or their authorized representatives. The Agency will transmit to the water contractors two reports each year of the receipts and expenditures of the Transmission System. The first report will be issued no later than February 1 and shall be accompanied by a preliminary budget for the following fiscal year, and will show expenditures for the first half of the fiscal year together with estimated year-end expenditures and estimated expenditures for the following fiscal year. The second report will be issued after the end of each fiscal year and will contain a budgetary accounting of Transmission System expenditures, revenues and balances for the fiscal year. Each month the Agency shall supply each water contractor with a summary showing the amount of water delivered during the preceding month to each regular customer and each customer receiving surplus water.”